

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

v.

ANGEL PADILLA,

Defendant.

94 Cr. 313-01 (CSH)

MARCH 9, 2021

MEMORANDUM AND ORDER

HAIGHT, Senior District Judge:

Defendant Angel Padilla, currently serving the sentence imposed by this Court in the captioned case following his conviction in 1995 by jury trial, has filed a motion for habeas corpus relief under 28 U.S.C. § 2255.

The motion was fully briefed by able counsel. While the motion was pending decision, the Court pointed out in a Memorandum and Order filed on July 16, 2020 [Doc. 907], familiarity with which is assumed, that Padilla's Reply Brief placed significant reliance upon the Second Circuit's divided decision in *United States v. Scott*, 954 F.3d 74 (2d Cir. 2020), which granted habeas relief. The Second Circuit had granted a rehearing *en banc* in *Scott*. This Court concluded that "it is preferable to await the outcome of the *Scott* appeal before deciding *Padilla*," and stated: "When the Second Circuit's decision in *Scott* is at hand, counsel in this case will be directed to file a further round of briefs on the subject of its effect, if any, on Padilla's habeas motion." Doc. 907, at 3-4.

In a majority opinion filed on March 2, 2021, reported at 2021 WL 786632, the Second

Circuit vacated the decision of the panel in *Scott*, reversed the district court's grant of Scott's § 2255 motion, and remanded the case to the district court with directions to reinstate Scott's original sentence and judgment. 2021 WL 786632, at *22.¹

Accordingly, the circumstance contemplated by this Court's earlier memorandum in the case at bar has come to pass. Counsel in this case are directed to exchange and file simultaneously supplemental briefs which discuss the effect, if any, of the Second Circuit's *en banc* majority decision in *Scott* upon this Court's resolution of Padilla's § 2255 motion. Counsel's briefs should also discuss the effect, if any, of the Second Circuit's decision on March 1, 2021 in *Collier v. United States*, No. 17-2402, 2021 WL 771689 (2d Cir. Mar. 1, 2021), which is of possible relevance to the issues presented by Padilla's case.

These supplemental briefs must be exchanged and filed not later than **April 23, 2021**. If the Court thereafter desires oral argument, counsel will be advised by Chambers.

It is SO ORDERED.

Dated: New Haven, Connecticut
March 9, 2021

/s/Charles S. Haight, Jr.
CHARLES S. HAIGHT, JR.
Senior United States District Judge

¹ The full citation for this decision is *United States v. Scott*, No. 18-163-CR, ___ F.3d ___, 2021 WL 786632 (2d Cir. Mar. 2, 2021).